

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
VALDOSTA DIVISION**

**ROBERT TUCK,**

Petitioner,

v.

**UNITED STATES OF AMERICA,**

Respondent.

**7:14-CV-59 (HL)**

28 U.S.C. § 2255

**7:11-CR-17-001 (HL)**

**ORDER**

Before the Court is the Recommendation of the United States Magistrate Judge (Doc. 49) that Petitioner's Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence be denied. Petitioner Robert Tuck ("Petitioner") has filed an Objection (Doc. 53) to the Recommendation. After undertaking a *de novo* review of the Recommendation, the Court accepts and adopts it in full.

As the Recommendation sets forth, Petitioner filed his habeas petition nearly a year after the statute of limitations for doing so had run. Petitioner rests his request for habeas relief on the Supreme Court's holding in Alleyne v. United States, \_\_\_ U.S. \_\_\_, 133 S.Ct. 2151, 186 L.Ed.2d 314 (2013). However, Alleyne does not apply retroactively to collateral review of criminal sentences, see United States v. Harris, 741 F.3d 1245, 1250 n. 3 (11th Cir. 2014), so this petition must be dismissed.

After careful consideration pursuant to 28 U.S.C. § 636(b)(1), the Court accepts and adopts the findings, conclusions, and recommendations of the United States Magistrate Judge. Petitioner's § 2255 motion is denied, and all pending motions are moot.

The Court finds that Petitioner has failed to make a substantial showing that he has been denied a constitutional right, and a certificate of appealability is therefore denied. 28 U.S.C. § 2253(c)(2); Slack v. McDaniel, 529 U.S. 473, 483-84, 120 S.Ct. 1595, 146 L.Ed.2d 542 (2000).

**SO ORDERED**, this 3<sup>rd</sup> day of July, 2014.

**s/ Hugh Lawson**  
HUGH LAWSON, SENIOR JUDGE

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